

III. REMARKS

Claims 1-34 are pending in this application. Claims 1-21, 23-28 and 30-34 are rejected under 35 USC 103(a) as allegedly being unpatentable over Brown et al. (US2002/0065766) ("Brown") in view of Gutterman et al. (US5297031) ("Gutterman"). Claims 14, 16-21 and 23-24 are rejected under 35 USC 103(a) as allegedly being unpatentable over Brown in view of Gutterman further in view of Madoff et al. (US2002/0019795) ("Madoff"). Claims 22 and 29 are rejected under 35 USC 103(a) as allegedly being unpatentable over Brown in view of Gutterman in view of Madoff further in view of Sheynblat et al. (US6839021) ("Sheynblat"). Applicant respectfully traverses the 35 USC 103(a) rejections for the reasons provided below.

Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the claims in a subsequent patent application that claims priority to the instant application.

A. REJECTION OF CLAIMS 1-34 UNDER 35 USC 103(a)

The cited publication of Brown et al. (US2002/0065766) references a provisional application filing date of September 5, 2000. The Office relies upon Brown to support its allegation of unpatentability for each of claims 1-34.

Submitted herewith is a declaration under 37 CFR 1.131 executed by inventor Daniel C. Sturman of the present invention establishing conception of the invention prior to the effective filing date the Brown application and diligence from conception to the

filing date of the instant application. Applicants respectfully assert, therefore, that the Brown publication does not constitute prior art under 35 USC §103(a). Applicants respectfully request that the rejection of claims 1-34 be withdrawn.

IV. CONCLUSION

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

/David E. Rook/

Date: February 26, 2009

David E. Rook
Reg. No.: 40,790

Hoffman Warnick LLC
75 State Street, 14th Floor
Albany, New York 12207
Phone: (518) 449-0044
Fax: (518) 449-0047